

## **REMARKS**

### **Summary of the Examiner's Actions**

The Examiner deemed the restriction requirement to be proper despite Applicant's traverse and made the restriction requirement final. Claims 7, 17, 19-23, 26, 33, and 40 were withdrawn from consideration. Applicant acknowledges the finality of the restriction requirement and the withdrawal of the claims.

The Examiner objected to Claim 28 as having an informality. Applicant acknowledges the objection.

The Examiner rejected Claims 1-6, 8-10, 11-16, 18, 25, 32, and 35-39 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Applicant acknowledges the rejection under 35 U.S.C. § 112, second paragraph.

The Examiner rejected Claims 24, 27, 28, 29-31 and 41 under 35 U.S.C. § 102(b) as being anticipated by Langford et al., U.S. Patent Number 6,015,163 ("Langford"). Applicant acknowledges the rejection under 35 U.S.C. § 102(b).

The Examiner rejected Claims 1-5, 8-15, 18, 24, 25, 27, 28, 29, 31, 32, 34-38, and 41 under 35 U.S.C. § 103(a) as being obvious under Enomoto et al., U.S. Patent Number 6,849,808 ("Enomoto"), in view of Schousek, U.S. Patent Number 5,474,327 ("Schousek"). Applicant acknowledges the rejection under 35 U.S.C. § 103(a).

The Examiner indicated that Claims 6, 16, and 39 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph set forth by the Examiner and to include all of the limitations of the base claim and any intervening claims. Applicant appreciates such indication.

### **Interview Summary**

A telephone interview was held on December 7, 2006 and was attended by Examiner Ruth Ilan, J. Kenneth Hoffmeister, attorney for the applicants, and Benjamin A. Alley, attorney

for the applicant. The independent claims of the application and proposed amendments thereto were discussed in view of the cited prior art. During the interview, the Examiner indicated that the Examiner's rejection under 35 U.S.C. § 112, second paragraph appeared to be traversed by the amendments and arguments presented in this Response with the understanding that further consideration would be required when the Response was formally submitted. Applicant is grateful for the Examiner's indication and for the opportunity to discuss Applicant's case.

### **Restriction Requirement**

The Examiner maintained the restriction requirement over Applicant's traverse that the Examiner did not establish a *prima facie* case for the restriction requirement, that all the claims of the application define a single invention, and that the Examiner has not established that the examination of all claims would result in a serious burden on the Examiner. Applicant likewise maintains the arguments previously made in traverse of the Examiner's restriction requirement. However, in the interest of expediting prosecution, Applicant withdrew Claims 7, 17, 19-23, 26, 33, and 40 from consideration and reserves the right to represent these claims in a divisional application. Additionally, in response to the Examiner's question "Is the Applicant stating for the record that the various disclosed embodiments are not patentably distinct?", Applicant is not stating that the various disclosed embodiments are not patentably distinct.

### **Objections to the Claims**

The Examiner objected to Claim 28 stating that "Claim 28 ends in a comma instead of a period". *Paper Number 20060815*, pg 4. Applicant amended Claim 28 such that Claim 28 concludes with a period. Considering the amendment to Claim 28, Applicant respectfully submits that the Examiner's objection to Claim 28 has been traversed and respectfully requests that the Examiner withdraw the objection to Claim 28.

### **Rejections under 35 U.S.C. § 112, second paragraph**

The Examiner rejected Claims 1-6, 8-10, 11-16, 18, 25, 32, and 35-39 under 35 U.S.C. § 112, second paragraph stating that the claims include the limitation "a first electrical connection to said wiper" and that "the specification does not provide clarity as to what connection is intended to be the electrical connection to the wiper". *Paper Number 20060815*, pg 4.

#### Claim 1

Applicant amended independent Claim 1 such that the language “a first electrical connection to said wiper” is replaced with the language “a first terminal being in electrical communication with said wiper”. The language of the amended Claim 1 fully conforms to the specification, and the terms and phrases used in the amended Claim 1 are clearly supported by the specification. Considering the amendment to Claim 1, Applicant respectfully submits that the Examiner’s rejection of Claim 1 under 35 U.S.C. § 112, second paragraph has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 1 under 35 U.S.C. § 112, second paragraph.

#### Claims 2-6 and 8-10

Considering the above discussion, Applicant respectfully submits that the Examiner’s rejection of dependent Claims 2-6 and 8-10 under 35 U.S.C. § 112, second paragraph has been traversed because the rejection of the underlying base claim, namely Claim 1, has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 2-6 and 8-10 under U.S.C. § 112, second paragraph.

#### Claims 11 and 35

Applicant amended Claims 11 and 35 such that the term “electrical connection” is replaced with the term “terminal”. The language of the amended Claims 11 and 35 fully conforms to the specification, and the terms and phrases used in the amended Claims 11 and 35 are clearly supported by the specification. Considering the amendment to Claims 11 and 35, Applicant respectfully submits that the Examiner’s rejection of Claims 11 and 35 under 35 U.S.C. § 112, second paragraph has been traversed and respectfully requests that the Examiner withdraw the rejection of Claims 11 and 35 under 35 U.S.C. § 112, second paragraph.

#### Claims 12-16, 18, and 36-39

Considering the above discussion, Applicant respectfully submits that the Examiner’s rejection of dependent Claims 12-16, 18, and 36-39 under 35 U.S.C. § 112, second paragraph has been traversed because the rejection of the underlying base claims, namely Claims 11 and 35,

has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 12-16, 18, and 36-39 under U.S.C. § 112, second paragraph.

#### Claims 25 and 32

Applicant cancelled Claims 25 and 32. Accordingly, Applicant amended Claims 24 and 31 to include the limitations of Claims 25 and 32 respectively. Applicant amended the limitations of Claims 25 and 32 such that the language “an electrical connection in communication with” is replaced with the language “a terminal in electrical communication with”. The language of the amended limitations of Claims 25 and 32 fully conforms to the specification, and the terms and phrases used in the amended limitations of Claims 25 and 32 are clearly supported by the specification. Considering the amendment to the limitations of Claims 25 and 32, Applicant respectfully submits that the Examiner’s rejection of Claims 25 and 32 under 35 U.S.C. § 112, second paragraph does not transfer to the amended Claims 24 and 31, which include the limitations of Claims 25 and 32 respectively.

#### **Rejections under 35 U.S.C. § 102(b)**

##### *The Law of Anticipation*

A person shall be entitled to a patent unless the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

35 U.S.C. §102(b). Section 2131 of the Manual of Patent Examining Procedure describes the basis for anticipation under 35 U.S.C. § 102. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

##### *The Examiner’s Rejection*

The Examiner rejected Claims 24, 27, 28, 29-31, and 41 under U.S.C. § 102(b) stating:

Langford et al teaches a seat having a plurality of zones on a sitting portion and including a plurality of sensors (115) actuated by a plurality of first members (105, see col. 3, lines 15-30) that are responsive to deflection of the seating portions.

*Paper Number 20060815, pg 5.*

#### *Applicant's Response*

##### Claim 24

Applicant amended Claim 24 to include the limitations of Claim 25, a dependent claim of Claim 24 not rejected by the Examiner under 35 U.S.C. § 102(b). Considering the amendment to Claim 24, Applicant respectfully submits that the Examiner's rejection of Claim 24 under 35 U.S.C. § 102(b) has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 24 under 35 U.S.C. § 102(b).

##### Claims 27-30

Considering the above discussion, Applicant respectfully submits that the Examiner's rejection of dependent Claims 27-30 under 35 U.S.C. § 102(b) has been traversed because the rejection of the underlying base claim, namely Claim 24, has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 27-30 under U.S.C. § 102(b).

##### Claim 31

Applicant amended Claim 31 to include the limitations of Claim 32, a dependent claim of Claim 31 not rejected by the Examiner under 35 U.S.C. § 102(b). Considering the amendment to Claim 31, Applicant respectfully submits that the Examiner's rejection of Claim 31 under 35 U.S.C. § 102(b) has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 31 under 35 U.S.C. § 102(b).

##### Claim 41

Applicant cancelled Claim 41.

## **Rejections under 35 U.S.C. § 103(a)**

### *The Law of Obviousness*

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

35 U.S.C. §103(a). In order to support a rejection under 35 U.S.C. § 103(a), “the Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.” MPEP § 2142, pg. 2100-121, 8th ed. “To reach a proper determination under 35 U.S.C. § 103(a), the Examiner must step backward in time and into the shoes worn by the hypothetical ‘person of ordinary skill in the art’ when the invention was unknown and just before it was made.” *Id.* The first element in establishing a *prima facie* case of obviousness is that “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings.” MPEP § 2143, pg. 2100-122, 8th ed. The second element is that there “must be a reasonable expectation of success.” *Id.* The third element is that “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” *Id.*

### *The Examiner’s Rejection*

The Examiner rejected Claims 1-5, 8-15, 18, 24, 25, 27, 28, 29, 31, 32, 34-38, and 41 under U.S.C. § 103(a) stating:

Enomoto et al. teaches a seat weight sensor system that includes a seat including a plurality of zones (see for instance Figure 3) and further each zone including a first sensor with a first member (71) a connecting member (70) attached to the first member and a potentiometer with a shuttle (42) and a wiper (101) and resistive member (52 or 53.) Also included are at least first and second electrical connections (57, 58, 59) which can reasonably be interpreted to come from either the wiper or the resistive member. Additionally, Enomoto et al. teaches other embodiments

(see Figure 44, 59) that teach a shuttle (100) a connecting member (33) and a first member (33.) and also includes a spring (36) forcing the shuttle to a neutral position. A potentiometer body (402) is attached to the seat.

*Paper Number 20060815, pp 5 and 6.*

*Applicant's Response*

Claim 1

Applicant amended Claim 1 to include the limitations that said first member is pushed downward by said seat, that said connecting member is pushed downward by said first member, and that said shuttle is pushed by said connecting member. The limitations of the amended Claim 1 are such that the prior art references, when combined, do not teach or suggest all the limitations of Claim 1. More specifically, neither Enomoto nor Schousek teach a first member that is pushed downward by a seat, a connecting member that is pushed downward by a first member, and a shuttle that is pushed by a connecting member. For example, in one embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a connecting member. The vehicle seat of this embodiment also imposes a transferred pulling force to a shuttle by way of the connecting member. The transferred pulling force is facilitated by securing the first member and a sensor unit that includes the shuttle to a frame such that the connecting member is suspended across the frame and below the vehicle seat. In an alternate embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a net that is suspended across a frame positioned below the vehicle seat. Accordingly, the first member pulls the connecting member, which pulls a shuttle that is a component of a sensor unit. The transferred pulling force is facilitated by securing the sensor unit to the frame and the first member to the net.

The limitations of the amended Claim 1 provide an apparatus for sensing an occupant in a vehicle seat by way of a series of direct pushing forces, whereas Enomoto provides an apparatus for sensing an occupant by way of transferred pulling forces. Consequently, the apparatus of the amended Claim 1 does not require the extensive engagement with the frame below a vehicle seat that is required by the device of Enomoto. Instead, the apparatus of the amended Claim 1 is merely situated proximately below the vehicle seat. Additionally, the apparatus of the amended

Claim 1 provides a pinpoint sensor, that is, a sensor that detects the deflection of a vehicle seat at a particular location. The apparatus of Enomoto requires a plurality of first members, connecting members, and shuttles to achieve the pinpoint accuracy provided by a single apparatus of the amended Claim 1. Consequently, the prior art references when combined do not teach or suggest all the claim limitations of Claim 1.

Considering the amendment to Claim 1, Applicant respectfully submits that the Examiner's rejection of Claim 1 under 35 U.S.C. § 103(a) has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 1 under 35 U.S.C. § 103(a).

#### Claims 2-5 and 8-10

Considering the amendment to Claim 1, Applicant respectfully submits that the Examiner's rejection of dependent Claims 2-5 and 8-10 under 35 U.S.C. § 103(a) has been traversed because the rejection of the underlying base claim, namely Claim 1, has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 2-5 and 8-10 under U.S.C. § 103(a).

#### Claim 11

Applicant amended Claim 11 to include the limitations that said first member is pushed downward by said seat, that said connecting member is pushed downward by said first member, and that said shuttle is pushed by said connecting member. The limitations of the amended Claim 11 are such that the prior art references, when combined, do not teach or suggest all the limitations of Claim 11. More specifically, neither Enomoto nor Schousek teach a first member that is pushed downward by a seat, a connecting member that is pushed downward by a first member, and a shuttle that is pushed by a connecting member. For example, in one embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a connecting member. The vehicle seat of this embodiment also imposes a transferred pulling force to a shuttle by way of the connecting member. The transferred pulling force is facilitated by securing the first member and a sensor unit that includes the shuttle to a frame such that the connecting member is suspended across the frame and below the vehicle seat. In an alternate embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to first



member by way of a net that is suspended across a frame positioned below the vehicle seat. Accordingly, the first member pulls the connecting member, which pulls a shuttle that is a component of a sensor unit. The transferred pulling force is facilitated by securing the sensor unit to the frame and the first member to the net.

The limitations of the amended Claim 11 provide an apparatus for sensing an occupant in a vehicle seat by way of a series of direct pushing forces, whereas Enomoto provides an apparatus for sensing an occupant by way of transferred pulling forces. Consequently, the apparatus of the amended Claim 11 does not require the extensive engagement with the frame below a vehicle seat that is required by the device of Enomoto. Instead, the apparatus of the amended Claim 11 is merely situated proximately below the vehicle seat. Additionally, the apparatus of the amended Claim 11 provides a pinpoint sensor, that is, a sensor that detects the deflection of a vehicle seat at a particular location. The apparatus of Enomoto requires a plurality of first members, connecting members, and shuttles to achieve the pinpoint accuracy provided by a single apparatus of the amended Claim 11. Consequently, the prior art references when combined do not teach or suggest all the claim limitations of Claim 11.

Considering the amendment to Claim 11, Applicant respectfully submits that the Examiner's rejection of Claim 11 under 35 U.S.C. § 103(a) has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 11 under 35 U.S.C. § 103(a).

#### Claims 12-15 and 18

Considering the amendment to Claim 11, Applicant respectfully submits that the Examiner's rejection of dependent Claims 12-15 and 18 under 35 U.S.C. § 103(a) has been traversed because the rejection of the underlying base claim, namely Claim 11, has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 12-15 and 18 under U.S.C. § 103(a).

#### Claim 24

Applicant amended Claim 24 to include the limitations that each of said plurality of first members is pushed downward by said sitting portion, that one of said plurality of connecting members is pushed downward by a corresponding one of said plurality of first members, and that

a shuttle in a corresponding one of said plurality of potentiometers is pushed by a corresponding one of said plurality of connecting members. The limitations of the amended Claim 24 are such that the prior art references, when combined, do not teach or suggest all the limitations of Claim 24. More specifically, neither Enomoto nor Schousek teach one of a plurality of first members that is pushed downward by a sitting portion, one of plurality of connecting members that is pushed downward by a corresponding one of a plurality of first members, and a shuttle that is pushed downward by one of a plurality of connecting members. For example, in one embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a connecting member. The vehicle seat of this embodiment also imposes a transferred pulling force to a shuttle by way of the connecting member. The transferred pulling force is facilitated by securing the first member and a sensor unit that includes the shuttle to a frame such that the connecting member is suspended across the frame and below the vehicle seat. In an alternate embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a net that is suspended across a frame positioned below the vehicle seat. Accordingly, the first member pulls a connecting member, which pulls a shuttle that is a component of a sensor unit. The transferred pulling force is facilitated by securing the sensor unit to the frame and the first member to the net.

The limitations of the amended Claim 24 provide an apparatus for sensing an occupant in a vehicle seat by way of a series of direct pushing forces, whereas Enomoto provides an apparatus for sensing an occupant by way of transferred pulling forces. Consequently, the apparatus of the amended Claim 24 does not require the extensive engagement with the frame below a vehicle seat that is required by the device of Enomoto. Instead, the apparatus of the amended Claim 24 is merely situated proximately below the vehicle seat. Additionally, the apparatus of the amended Claim 24 provides a pinpoint sensor, that is, a sensor that detects the deflection of a vehicle seat at a particular location. The apparatus of Enomoto requires a plurality of first members, connecting members, and shuttles to achieve the pinpoint accuracy provided by a single apparatus of the amended Claim 24. Consequently, the prior art references when combined do not teach or suggest all the claim limitations of Claim 24.

Considering the amendment to Claim 24, Applicant respectfully submits that the Examiner's rejection of Claim 24 under 35 U.S.C. § 103(a) has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 24 under 35 U.S.C. § 103(a).

#### Claim 25

Applicant cancelled Claim 25.

#### Claim 27-29

Considering the amendment to Claim 24, Applicant respectfully submits that the Examiner's rejection of dependent Claims 27-29 under 35 U.S.C. § 103(a) has been traversed because the rejection of the underlying base claim, namely Claim 24, has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 27-29 under U.S.C. § 103(a).

#### Claim 31

Applicant amended Claim 31 to include the limitations that said first member is pushed downward by said sitting portion, that said first connecting member is pushed downward by said first member, and that said shuttle is pushed by said first connecting member. The limitations of the amended Claim 31 are such that the prior art references, when combined, do not teach or suggest all the limitations of Claim 31. More specifically, neither Enomoto nor Schousek teach a first member that is pushed downward by a sitting portion, a first connecting member that is pushed downward by a first member, and shuttle that is pushed by a first connecting member. For example, in one embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a connecting member. The vehicle seat of this embodiment also imposes a transferred pulling force to a shuttle by way of the connecting member. The transferred pulling force is facilitated by securing the first member and a sensor unit that includes the shuttle to a frame such that the connecting member is suspended across the frame and below the vehicle seat. In an alternate embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a net that is suspended across a frame positioned below the vehicle seat. The first member pulls the connecting

member, which pulls a shuttle that is a component of a sensor unit. The transferred pulling force is facilitated by securing the sensor unit to the frame and the first member to the net.

The limitations of the amended Claim 31 provide an apparatus for sensing an occupant in a vehicle seat by way of a series of direct pushing forces, whereas Enomoto provides an apparatus for sensing an occupant by way of transferred pulling forces. Consequently, the apparatus of the amended Claim 31 does not require the extensive engagement with the frame below a vehicle seat that is required by the device of Enomoto. Instead, the apparatus of the amended Claim 31 is merely situated proximately below the vehicle seat. Additionally, the apparatus of the amended Claim 31 provides a pinpoint sensor, that is, a sensor that detects the deflection of a vehicle seat at a particular location. The apparatus of Enomoto requires a plurality of first members, connecting members, and shuttles to achieve the pinpoint accuracy provided by a single apparatus of the amended Claim 31. Consequently, the prior art references when combined do not teach or suggest all the claim limitations of Claim 31.

Considering the amendment to Claim 31, Applicant respectfully submits that the Examiner's rejection of Claim 31 under 35 U.S.C. § 103(a) has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 31 under 35 U.S.C. § 103(a).

#### Claim 32

Applicant cancelled Claim 32.

#### Claim 34

Considering the amendment to Claim 31, Applicant respectfully submits that the Examiner's rejection of dependent Claim 34 under 35 U.S.C. § 103(a) has been traversed because the rejection of the underlying base claim, namely Claim 31, has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claim 34 under U.S.C. § 103(a).

#### Claim 35

Applicant amended Claim 35 to include the limitations that said connecting member is pushed downward by said first member and that said shuttle is pushed by said connecting

member. The limitations of the amended Claim 35 are such that the prior art references, when combined, do not teach or suggest all the limitations of Claim 35. More specifically, neither Enomoto nor Schousek teach a connecting member that is pushed downward by a first member and a shuttle that is pushed by a connecting member. For example, in one embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to a first member by way of a connecting member. The vehicle seat of this embodiment also imposes a transferred pulling force to a shuttle by way of the connecting member. The transferred pulling force is facilitated by securing the first member and a sensor unit that includes the shuttle to a frame such that the connecting member is suspended across the frame and below the vehicle seat. In an alternate embodiment, Enomoto teaches a vehicle seat that imposes a transferred pulling force to first member by way of a net that is suspended across a frame positioned below the vehicle seat. Accordingly, the first member pulls the connecting member, which pulls a shuttle that is a component of a sensor unit. The transferred pulling force is facilitated by securing the sensor unit to the frame and the first member to the net.

The limitations of the amended Claim 35 provide an apparatus for detecting an occupant in a vehicle seat by way of a series of direct pushing forces, whereas Enomoto provides an apparatus for sensing an occupant by way of transferred pulling forces. Consequently, the apparatus of the amended Claim 35 does not require the extensive engagement with the frame below a vehicle seat that is required by the device of Enomoto. Instead, the apparatus of the amended Claim 35 is merely situated proximately below the vehicle seat. Additionally, the apparatus of the amended Claim 35 provides a pinpoint sensor, that is, a sensor that detects the deflection of a vehicle seat at a particular location. The apparatus of Enomoto requires a plurality of first members, connecting members, and shuttles to achieve the pinpoint accuracy provided by a single apparatus of the amended Claim 35. Consequently, the prior art references when combined do not teach or suggest all the claim limitations of Claim 35.

Considering the amendment to Claim 35, Applicant respectfully submits that the Examiner's rejection of Claim 35 under 35 U.S.C. § 103(a) has been traversed and respectfully requests that the Examiner withdraw the rejection of Claim 35 under 35 U.S.C. § 103(a).

#### Claim 36-38

Considering the amendment to Claim 35, Applicant respectfully submits that the Examiner's rejection of dependent Claims 36-38 under 35 U.S.C. § 103(a) has been traversed because the rejection of the underlying base claim, namely Claim 35, has been traversed. Consequently, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 36-38 under U.S.C. § 103(a).

#### Claim 41

Applicant cancelled Claim 41.

#### **Allowable Dependent Claims**

The Examiner indicated that "Claims 6, 16, and 39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph" and "to include all of the limitations of the base claim and any intervening claims". *Paper Number 20060815*, pg 6. Claims 6, 16, and 39 depend from Claims 1, 11, and 35, respectively. Applicant submits that Claims 1, 11, and 35, in view of the amendment to such claims, are in condition for allowance. Consequently, Claims 6, 16, and 39 are in a condition for allowance as dependent claims. However, Applicant reserves the right to present dependent Claims 6, 16, and 35 in independent form in a subsequent communication.

#### **Summary**

In view of Applicant's amendment of Claims 1, 11, 24, 31, and 35, the cancellation of Claims 25, 32, and 41, without prejudice, and the arguments presented herein, the above-identified patent application is in condition for the issuance of a Notice of Allowance. Such action by the Examiner is respectfully requested. If, however, the Examiner is of the opinion that any of the portions of the application are still not allowable, Applicant would appreciate if the Examiner will telephone the undersigned to expedite the prosecution of the application.

The Commissioner is authorized to charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 16-1910 (28540.00).

Respectfully submitted,

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